

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

TIMOTHY A. ARVIEW,

Defendant.

Case No. 07-cv-40046-DRH

ORDER

HERNDON, Chief Judge:

Before the Court is Defendant's Motion for Voluntary Dismissal of Appeal (Doc. 83). On November 14, 2008, the Defendant filed, *pro se*, a Motion to Appoint Counsel (Doc. 78), requesting counsel be appointed in order to file a notice of appeal on his behalf as well as handle appellate proceedings. Out of an abundance of caution due to the 10-day window for filing a notice of appeal, the Court also construed this Motion as Defendant's Notice of Appeal. Subsequently, the Court denied appointment of counsel (Doc. 82), explaining that Defendant's retained trial counsel was under an obligation to continue to represent Defendant for any appellate proceedings until the Seventh Circuit allowed counsel to withdraw.

After the Court issued its Order denying Defendant's Motion to Appoint Counsel, Defendant filed his Motion for Voluntary Dismissal of Appeal (Doc. 83).

The Motion explains that previously, there was a breakdown in communication between Defendant and his counsel regarding his appeal and this prompted Defendant to file the *pro se* Motion to Appoint Counsel. The instant Motion further states that it was not to be construed as a Notice of Appeal, as Defendant and his counsel spoke the week before and Defendant had indicated his intent not to appeal. Since the Court's order denying counsel and construing the Motion to Appoint Counsel as a Notice of Appeal, Defendant has again stated to his retained counsel that he does not wish to appeal and asks that counsel takes the necessary steps to terminate any appeal. Accordingly, the instant Motion for Voluntary Dismissal of Appeal was filed.

For good cause shown, Defendant's Motion (Doc. 83) is **GRANTED**.
Defendant's Notice of Appeal (Doc. 79) is hereby **WITHDRAWN**.

IT IS SO ORDERED.

Signed this 19th day of November, 2008.

/s/ David R. Herndon

Chief Judge
United States District Court